

an eligible telecommunications carrier **if** the State commission first determines that such additional designation is in the public interest.

(Emphasis added.) Clearly, Congress supported the selection of a single recipient of USF in Rural LEC service areas. Indeed, Congress imposed express protections and preconditions on the designation of a second recipient in Rural LEC service areas.

The Recommended Decision reflects these Congressional protections for assuring universal service in Rural LEC service areas and, consequently, recommends retaining the existing study areas as the appropriate service area for applying the ETC service obligations in Rural LEC service areas.

The retention of the current study areas as the basic requirement for universal service funding in Rural LEC areas is expressly permitted by § 214(e)(5), which adopts the existing study areas as the default service area, stating in relevant part:

In the case of an area served by a rural telephone company, “service area” means such company’s “study area” unless and until the Commission and the States, after taking into account recommendations of a Federal-State Joint Board instituted under section 410(c), establishes a different definition of service area for such company.

By retaining the existing study areas as the Rural LEC service area, a carrier desiring USF payment cannot selectively serve a portion of the exchanges or region served by a LEC.

This requirement for universal service funding would have several benefits. It prevents a CLEC from receiving universal service funding for only the more profitable exchanges or areas of a Rural LEC. It also means that the CLEC would have service obligations and costs of service that are more similar to the Rural LEC, thereby allowing fair competition between a Rural LEC and a CLEC receiving universal service funding. Further,

a Rural LEC would be less likely to face the need to reduce rates in some areas (where there is competition) and increase rates in other areas (where there is no competition). That, in turn, would assure that the goals of universal service and affordable rates throughout a Rural LEC's service area can be met.

Finally, the Recommended Decision also correctly concludes that adopting the existing study areas as the Rural LECs' service areas would reduce the cost of implementing the program. The Recommended Decision also supports the use of embedded costs in the USF allowance formula, and the Rural LECs currently determine their embedded costs on a study-area basis. The Rural LECs' accounting systems are designed to be applied to the entire study area. Retaining the existing study area as the Rural LEC service area avoids the costs and difficulties of attempting to determine embedded costs for a different service area.

¶ 174.

The Recommended Decision supporting the existing study areas as the required universal service areas for Rural LECs should be adopted by the Commission.

## **XI. THE APPROPRIATE TREATMENT OF THE CCL CHARGE SHOULD BE RESOLVED IN THE ACCESS PROCEEDING.**

The Recommended Decision states in part:

Commenters disagree on whether the current, usage-sensitive CCL [carrier common line] charge represents a true universal service support flow. The Joint Board reaches no conclusion on this question.

At ¶ 774. While the Joint Board reaches no conclusion on this issue, it is clear that the CCL is not a direct universal support mechanism. The function of the CCL is to recover from

IXCs a portion of the cost of obtaining access to end users. Only those IXCs actually using the local loop to access end users pay the cost.

The Recommended Decision asserts that the current usage sensitive rate structure for the CCL charge is “economically inefficient,” and the Commission is urged to change the current CCL rate structure so that LECs are no longer required to recover the non-traffic sensitive cost of the loop from IXCs on a traffic-sensitive basis. ¶ 754.

The current record is inadequate to provide a resolution of the issue of whether a fixed allocation is superior to a usage sensitive rate. Further, the proper role of the CCL in recovering the cost of providing IXCs with access to end users does not relate directly to the operation of the USF program, but rather, involves the proper allocation and recovery of costs related to the use of the local loop. Accordingly, this issue should be addressed in the Commission’s Access Charge Investigation, rather than in this proceeding.

## **XII. NECA SHOULD BE SELECTED AS THE PERMANENT ADMINISTRATOR OF THE PROGRAM UPON DEMONSTRATION OF ITS NEUTRALITY.**

The Recommended Decision suggests that the Commission establish an advisory board to select a permanent administrator of the program. ¶ 830. The Recommended Decision suggests appointing NECA as the interim administrator of the program with respect to schools, libraries and rural health care providers. ¶ 833. However, the Joint Board does not recommend NECA’s automatic appointment as the permanent administrator, leaving open NECA’s possible selection by the advisory board. ¶ 832. NECA should be selected as the permanent administrator of the USF programs upon demonstration of steps to assure its neutrality.

As the Joint Board states: "NECA has successfully administered the existing high cost assistance fund and the TRS fund." The Joint Board did not recommend NECA's selection as the permanent administrator because some commenters questioned NECA's "ability to appear as a neutral arbitrator among contributing carriers." ¶ 832. NECA is indicated a willingness to address this concern by separately operating the USF fund under the supervision of a board that is representative of the entire industry. Therefore, subject to NECA demonstrating that it will be structured to assure appropriate neutrality, the Commission should select NECA as the permanent administrator of the USF programs.

Because the cost of administering the USF must be recovered through a surcharge, it is important that the permanent administrator be able to efficiently operate the USF. NECA has the necessary experience to operate the USF efficiently. NECA has a strong record of cost effective service. It has reduced staff and budget every year since its inception 13 years ago. The Commission should select NECA in order to reap the benefits from this learning curve, rather than employ a new administrator in the hope that, over time, it might become as efficient as NECA.

Equally important, the USF administrator must have the technical capability to determine the appropriate amount due from a large and diverse number of contributors and return the money to the appropriate recipients in an expeditious manner. The process will be extremely complex, with numerous rules and requirements. A new administrator would require a significant learning period, which would increase costs and the risks of error. These disadvantages could be avoided by selecting NECA as the permanent administrator. LECs and CLECs will be making large investments in reliance on prompt payment of the

USF allocations. Only NECA has the experience needed to assure compliance with the tight timelines required to optimize the benefits of the USF programs.

While NECA will need to change its advisory board to incorporate new participants to assure its acceptance as a neutral operator of the USF, no other administrator can assure the timely and efficient administration of the USF programs. Therefore, the Commission should select NECA as the permanent administrator subject to demonstrating to the Commission's satisfaction that the USF program will be overseen by a sufficiently representative board.

### **XIII. CONCLUSION: THE COMMISSION SHOULD AMEND THE JOINT BOARD RECOMMENDATION.**

Based on the foregoing, the Commission should amend the Recommended Decision as follows:

I. The proposal to add "competitive neutrality" to the principles enumerated in Section 253(h) (§§ 22 and 23) should not be adopted for Rural LEC service areas, because it conflicts with Congress' universal service priorities for those service areas.

II. The recommendation of a blanket waiver of equal access as a required service obligation (§ 66) should not be adopted. In those areas where the incumbent LEC offers equal access, a CLEC should, as a precondition to receiving USF support, be required to offer comparable equal access, unless a State commission determines that an exemption is justified by exceptional circumstances.

III. The findings that support levels for Rural LECs should reflect differences in calling scope, income levels and revenue levels (§§ 128, 129 and 131) should be adopted. The proposals to freeze per line support levels, including DEM weighting, long term support

and high cost support for three years (§§ 289, 290, and 291) and transition to a proxy cost model (§§ 270 and 290) should not be adopted.

IV. Support to rural LECs should be based on actual costs, rather than forward looking costs because forward looking costs will not provide “sufficient” and “predictable” support for the costs that determine actual rates.

V. The recommendation to limit support to single lines to primary residences and businesses (§§ 90 and 91) should not be adopted. All local access services in qualifying service areas should be eligible for support.

VI. The recommendation to further study competitive bidding for Rural LEC service areas (§ 349) is inappropriate, inconsistent with the Act, and should not be accepted.

VII. The recommendation that existing special prices and arrangements to schools qualify for support (§§ 571 and 572) should be adopted. Existing programs should qualify upon demonstrating that the prices received are below the “lowest corresponding price.” See § 540.

VIII. The recommendation that CLECs receive the same level of support per access line as the Rural LECs (§§ 296 and 297) should be rejected. A CLEC should receive support based on its actual costs. In addition, USF support should not be provided to a CLEC for a resold service because it would provide the CLEC with an unfair economic advantage and violate the pricing discount principles contained in the Act.

IX. The proposal to collect the USF contribution based on gross revenues less amounts paid to other carriers (§§ 12 and 807) should be rejected. The appropriate,

competitively neutral methodology would use total retail revenues as the base for calculating contributions.

X. The recommendation to adopt the existing study areas as the required service areas for Rural LEC areas (§§ 134, 172 and 174) should be adopted.

XI. The recommendation to study the appropriate role of the CCL charge in the Commission's Access Charge Investigation (§ 774) should be adopted.

XII. After NECA completes its proposed changes to its advisory board, it should be appointed the administrator of the USF.

Dated: December 18, 1996.

Respectfully submitted,

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CERTIFICATE OF SERVICE

I hereby certify that an original and four copies of Comments of the Minnesota Independent Coalition on the Universal Service Recommended Decision were sent via federal express on the 18th day of December, 1996, to the following:

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Dated this 18th day of December, 1996.

  
Richard J. Johnson

Subscribed and sworn before me  
this 18th day of December, 1996.

  
Notary Public

